

**Eureka Police Department
Community Oriented Policing and Problem Solving
Nuisance Abatement Guide**

Dear Citizen:

The Eureka Police Department is committed to the policing concept known as “Community Oriented Policing and Problem Solving”. This policing concept is based on the ideal that crime is not just a police problem, it is a community problem. By developing a partnership between the police and the community, crime, other public safety issues, and public nuisances will be addressed with community solutions.

Building relationships between community members and police is one way we can decrease crime and improve the quality of life in Eureka.

Another relationship we are concerned about is that which exists between the citizens themselves. Through Neighborhood and Business Watch Programs, we are building a network of citizens who, through this process, will be empowered to prevent crimes and address public nuisances and safety issues in their neighborhoods.

The role of the police in this process is one of leadership, guidance, assistance, and as the enforcement arm of this community partnership.

The focus of this manual is to promote positive and responsible partnerships between landlords, tenants and the Eureka Police Department. This partnership must be developed in order to successfully maintain crime free apartments and houses. Expectations about the responsibilities of the landlord and the responsibilities of the tenant must be crystal clear from the beginning of the relationship.

This manual has a limited purpose. It is intended to address aspects of property management that may be important to the control and prevention of illegal activity on rental property. It is strongly recommended that landlords and managers stay informed of changes in the law and the evolution of techniques.

The purpose of this manual is simple. We want to work with you to keep drug dealers out of your property, out of our neighborhoods, and away from our children. We look forward to your participation and invite you to give us feedback on this material.

Sincerely,
Garr H. Nielsen
Garr H. Nielsen
Chief of Police

ALLIED AGENCY ACKNOWLEDGMENTS

This manual includes material adapted from the Landlord Training Program Manual currently in use by the Oakland Police Department. Permission from the Oakland Police Department for the use of materials contained within Oakland's Landlord Training Program is gratefully acknowledged.

No part of this manual should be regarded as legal advice or considered a replacement of a landlord's responsibility to be familiar with the law. Neither the publisher nor the author is engaged in rendering legal services. If legal assistance is required, the services of a competent attorney should be sought. An experienced attorney should be brought into the process in any situation that may become adversarial.

Parts of this manual were also borrowed from the San Diego Police Department's "Landlord Training Program". We are grateful to the San Diego Police Department for their support on this project and agree with the following disclaimer:

"The San Diego Police Department understands that the manual will be modified to reflect conditions within your area. We cannot, of course, assume responsibility for actions flowing from the manual's use in locations other than the City of San Diego, nor can we vouch for the effectiveness of the manual elsewhere."

No part of this manual should be sold or used for profit.

Any errors or significant omissions should be noted and forwarded so that corrections in future versions can be made. Additional copies of this manual can be obtained from, and/or comments forwarded to:

**Office of the Chief of Police
Eureka Police Department
604 C Street
Eureka CA 95501
(707) 441-4060**

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INTRODUCTION

Caring, concerned landlords are indispensable to the vitality of our community. You are reading this manual because you are a responsible property owner and/or a concerned citizen. Owners of rental units play an important role in maintaining and sometimes reclaiming the integrity of our neighborhoods. When used thoughtfully, the contents of this manual can make Eureka a safer and more enjoyable place to live.

Chronic drug dealing and other illegal activities cause neighborhood decay. By maintaining your property you foster pride in the community and show respect for all the residents of Eureka. Neglected buildings invite illegal activity. Illegal activity invites neglect. One neglected property on a block encourages deterioration, which spreads rapidly through the surrounding area.

This manual will help landlords avoid the blight of the drug house cycle. It will help responsible landlords find honest tenants and prevent dishonest tenants from abusing rental property and our neighborhoods.

The Eureka Police Department is committed to controlling crime and can assist in preventing declining property values. The Police cannot change the underlying conditions causing the problems in Eureka without the active participation of property owners, tenants and neighbors. There must be a coordinated effort by residents, property owners and police in the following areas:

1. Landlords must manage their properties in ways that deter illegal activity on their properties.
2. Landlords must make a commitment to immediate action when they are aware of illegal activity.
3. Tenants, landlords, and neighbors must learn to recognize illegal activity and to report it to the police.
4. The Eureka Police Department must work in cooperation with both property owners and residents in their efforts to eliminate drug house activity.

If we all work together, Eureka's neighborhoods can become trouble free and safe for our children and grandchildren.

PREPARING THE PROPERTY

THE BASICS

Screen your tenants before you rent to them. Make the property safe and attractive to honest renters, and unattractive to dishonest renters.

MAINTAIN HOUSING STANDARDS

Honest renters look for housing which is well maintained and livable. Maintaining property standards is important to the public welfare and is a protection against neighborhood decay. Dishonest renters look for housing which is substandard and in violation of housing codes. Substandard housing attracts illegal drug activity. The eviction of a dishonest renter from a substandard property is often a long and expensive process. If you **are** renting housing which is substandard, you have given up most of your eviction rights. By renting substandard housing, the owner is subject to fines and civil liabilities. Before you rent your property, ensure that it meets local and state housing codes.

PROPERTY VISIBILITY

Lighting: Sellers, buyers and manufacturers of illegal drugs do not like to be seen. The front door, back door, and other entrance points should be equipped with energy efficient flood lighting that is either motion or light sensitive. Backyards, carports, driveways and walkways should have similar illumination devices installed. However, lighting should not harshly shine into tenants' or neighbors' windows.

Landscaping: Keep bushes and shrubs well trimmed. Bushes should not impair the views of doors and windows. Bushes should be neatly trimmed to discourage the possibility of a person hiding behind or under them.

Fences: Fences should not obscure the view of your property. Chain link or iron fences are best for front and side yards. Wooden fences are not recommended for the front of the property. If wood is used, leave large gaps between boards to make your property is visible to others. You might also consider shorter fences. Fences should be well maintained and kept attractive. Make fencing repairs as soon as possible.

Address: Post the building address clearly and in a contrasting color. The address should be easily read from the street and alley. Responding police, fire or medical personnel need to quickly identify your property when emergencies occur. Neighbors and witnesses of illegal activity should be able to clearly see the address to report to the police. Only drug house operators and thieves benefit if the address is difficult to read from the street or alley.

PROPERTY APPEARANCE

Graffiti: Remove graffiti from all areas of the property as soon as it appears. Graffiti not quickly removed only encourages more graffiti. Honest tenants will be discouraged by the sight of graffiti on the property.

The City of Eureka Redevelopment Agency has a Graffiti Abatement Assistance Program. For information on this program you can call the Redevelopment Agency at 441-4209.

Trash: The property, including alleys, easements, parking garages and trash enclosures, should be kept clean. All debris should be removed, including abandoned appliances and furniture. Remove abandoned or disabled vehicles from the property.

Walkways and Common Areas: Walkways and common areas should be unobstructed, clean and visible to others. Lawns should be cut regularly and weeds, litter, and debris removed frequently to provide a neat, maintained appearance.

PROPERTY SECURITY SUGGESTIONS

Locks: Install working locks on all entrances to the building. Install secure exterior locks on each individual apartment within the building. Issue keys only to lawful tenants and change the locks when a lawful tenant moves.

Gates: Install security gates at the front and rear entrances of the building. Issue keys only to lawful tenants and make keys available to the police. Repair security gates as soon as they become damaged.

Carports: Post properly worded “Tenant Parking Only” signs in carports and driveways. Enforce “Tenant Parking Only” rules. Install proper security lighting, including motion sensitive lighting, in garages and driveways.

Laundry Rooms: Install a self-locking security door and issue keys only to lawful tenants. Ensure interior lighting is adequate and works at all times. Do not allow access to a laundry room from an alley.

Emergency Procedures: Provide all tenants with a list of emergency telephone numbers. Solicit interaction between your tenants and yourself. Encourage tenants to contact you day or night when problems arise.

Post Signs: Post “**No Trespassing**”, “**No Drugs**”, and “**No Loitering**” signs on the property. Let dishonest tenants and their guests know that illegal activity will not be tolerated.

Vacant Units: Keep vacant units locked and secured. Conduct frequent checks on vacant units to ensure that trespassing or illegal occupancy is not occurring.

On-site Management: A pro-active on-site manager **is preferable** to an off-site manager. Managers should conduct frequent walks through the property to keep informed of activity occurring on the property. Question any persons loitering on the property by asking “Can I help you?” Do not jeopardize your personal safety. If the situation is questionable, contact the police for assistance. See the section titled **“Active Management”** for further suggestions.

Security Guards: Large apartment complexes or groups of apartments might consider hiring security services to patrol the property during specific hours when illegal activity is occurring. Security services range from random patrol of property to an on-site, 24-hour security guard.

Peepholes: Install wide-angle view peepholes on exterior doors.

Maintaining proper housing standards, appearance and security will attract good tenants. Dishonest tenants will be discouraged from considering your property as an operating center for their illegal activities. Good tenants protect and maintain your property. Good tenants pay rent and obey rules. Landlords benefit through lower vacancy rates, lower maintenance costs and positive cash flows. It is very expensive for landlords to evict bad tenants and repair the damage caused by illegal activity.

Taken alone, few of the elements presented will have a significant impact. Taken together, they **will** deter criminals from wanting to move onto the property, and make it easier for neighbors and police to observe and document illegal activity.

NOTES

SCREENING YOUR APPLICANT

Conducting a thorough screening and background check on prospective tenants may be the most important step in renting your property. Owners and managers of rental properties who do not adequately screen prospective tenants may invite illegal activity on their property. Illegal activity can cost the landlord thousands of dollars. Activity associated with drug dealing can lead to damaged property, loss of paying tenants, and lawsuits filed against the property owner by neighbors. Property owners are obligated by law to ensure that activities on their rental property do not create a nuisance or interfere with the peace and quiet of their neighbors. By conducting a thorough screening and background check, landlords can reduce the chance of renting to drug dealers.

APPLICANT SELF-SCREENING

Applicant self-screening is used to weed out, as early as possible, applicants planning illegal activity. Clearly post the rules and regulations **on the property**. People with dishonest intentions will quickly understand that your property is not for them.

ADVERTISING

Advertise to reach honest and law-abiding tenants. Tell prospective tenants what you are looking for and what you expect. State in your advertisement that verifiable references are required and that criminal and drug activity will not be tolerated or accepted. This will eliminate many dishonest people who would have otherwise applied. A well-written advertisement can save you time and money. Remember, your advertising must be presented in the exact same manner to every applicant who applies and must not imply unlawful discrimination.

Example: “For Rent: Two bedroom, one bath apartment in nice area. References required and will be verified. Drug usage and other illegal activities will be reported to law enforcement.”

APPLICATION INFORMATION

There are several pre-printed landlord-tenant contracts currently available. They can be obtained from various office supply businesses. The information obtained will be crucial in screening applicants. The following are basic information gathering questions:

Full Name (Include middle name, maiden name, and aliases)

Date of Birth

Driver's License Number and State

Social Security Number

Names, Birthdates and Relationships: Include each person who is going to occupy the premises.

Employment History: Include the past two years. Request salary information, supervisor's name, telephone number and business address. Pay stubs, or other evidence of ability to pay may help to verify this information.

Additional Income: This is necessary if the applicant is using this income to qualify.

Bank References: Obtain the bank name, address, phone number and account number.

Names, Addresses and Telephone Numbers of Last Two Landlords: This is **very important**. Do not accept an answer of "I forgot".

Applications can be modified to suit your personal needs. You may ask specific questions such as "Have you or any person named in this application been arrested for possessing, using or selling drugs?" and "Have you ever been evicted from a rental property?" Questions of this type are legal and you can require your applicant to answer them. The only legal requirement is that you ask every applicant the exact same questions.

When the application is completed by the applicant and given to you, make sure that every question has been answered. Complete information is needed to effectively process the application.

HOW TO VERIFY APPLICATION INFORMATION

Contact the Previous Landlords: The most important telephone calls you make will be to the previous landlords to verify the applicant's information. A telephone call to the previous landlords can provide insight into the applicant's past behavior. Call the previous two landlords so you have two points of view. The applicant's second to last landlord is most likely to give you an accurate assessment of the applicant. Sometimes the applicant's last landlord will paint a positive picture of the applicant to get them out of their rental property. If possible, meet the previous landlords in person to discuss the applicants. This will allow you to confirm that you are talking to the previous landlord and not to someone just claiming to be the landlord.

Prepare a list of questions to ask the previous landlords. Be sure to ask the most important question of all, "Would you rent to this person again?" Most landlords fail to contact the applicant's previous landlords. Do not fall into this trap. Information you gain from talking to previous landlords can save the headaches of renting to a bad tenant.

Compare the Picture Identification to the Application Information: Make sure the applicants have picture identification. Compare the ID with the application information for accuracy. If the applicant cannot explain why they do not match, turn this applicant

down and move on to the next applicant. Take pictures of all adults on the rental agreement and attach it to the agreement.

Conduct a Credit Check: Obtaining a credit report on an applicant provides a way to verify application information. Credit checks show past addresses, court ordered evictions, past due bills and the overall credit worthiness of the applicant. The telephone directory, under “Credit Reporting Agencies”, lists providers of this service. Fee schedules for this service can be obtained from the agency of your choice.

This is money well spent. However, if you cannot afford the credit check, at least contact the bank listed on the application to verify the applicant does in fact have an account and that the applicant’s check is good.

Verify Income Sources: Always look up in the telephone book the telephone number of the employer listed by your applicant. This will ensure that you are actually talking to the employer. Verify the applicant’s income. This information allows you to determine if the applicant can afford the rent payments with the amount of reported income.

Remember, drug dealers love to deal on a cash only basis. By taking the time to verify the applicant’s income, you can tell if the person is making an honest living.

ACCESSING PUBLIC RECORDS

Criminal and Civil Histories: This type of information on prospective tenants can be obtained by contacting the Eureka Municipal Court Clerk’s Office located at the County Courthouse, 825 Fifth Street, Eureka. The Court Clerk will provide you with information on how to access available public records. **Appointments are required.**

The criminal and civil records are only of those cases occurring within the county of Humboldt. If your applicant has lived outside the county, you need to contact the court clerk of that county by telephone and request a record check. **For information or an appointment contact the Superior Court of California, County of Humboldt Criminal and Civil Cases Division at 445-7256.**

California Driver License Information: You may obtain the driving record of a prospective tenant by filling out an information request form (INF 70), available at the information booth of any Department of Motor Vehicles. You will need the subject’s name and date of birth. Their driver license number or I.D. number is helpful but not mandatory. You may also request a search of a license plate for information on the registered owner. There is a minimum cost for this service and a ten-day waiting period. The form and fee must be mailed to: **DMV, P O Box 944247, Mail Station D146, Sacramento CA 94244-2470.** The DMV will not release any address information.

HOW TO TURN DOWN AN APPLICANT

If you have screened all applicants by the same fair rental guidelines, you may reject an applicant who does not meet those guidelines. When you turn down an applicant based on a credit report, simply state, "Based on the information I received from your credit report, you do not meet our rental guidelines." **When you reject an applicant based on information you have paid for (a credit report), you are required by Federal Law to supply the applicant with the name and address of the reporting party.**

If you reject an applicant based on information received from previous landlords or personal references, you are not required to tell the applicant who provided the information. Simply tell the applicant, "Based on a check of your application information you do not meet our rental guidelines." If the applicant wants to know the reason for the application rejection, you may require him to submit his request in writing to you within 60 days and you will respond in writing. If you reject an applicant based on information provided by a personal reference, you are not required to tell the applicant in person why you rejected his application. You are required by law to tell an applicant that he has the right to submit a written request for that information within 60 days.

It is a good idea to post the rental guidelines, disclosure information and regulations for turning down an applicant. This prevents problems that may occur from rejected applicants.

MISCELLANEOUS SCREENING SUGGESTIONS

There is no system which will guarantee the selection of good tenants. However, most problem tenants can be avoided by using thorough screening techniques. Taking the extra time to conduct a personal interview with each prospective tenant can provide great insight into the person who wants to rent your property. Also, watch how the applicant inspects the rental property. Does he look closely at each room? If he quickly runs through the property without stopping to study room sizes or ask any questions, chances are he is not going to be a legitimate tenant. Remember, drug dealers do not care what a place looks like or what size it is. Screen all persons who will be living on the property.

Always look at how the application has been filled out. An honest person has nothing to hide. If you receive an application that is only partially filled out, ask that the applicant to complete the application. If the person cannot provide the information or remember his last address or landlord, then investigate further. If you find discrepancies in the application, ask more questions. Remember, the reason for applicant screening is to prevent problem tenants from ever renting your property. If you find out that an applicant has lied or given false information to you, turn them down and move on to the next application.

If you remember only one thing from this applicant screening process, let it be the following:

“IT IS EASIER TO KEEP DISHONEST APPLICANTS OUT OF YOUR RENTAL PROPERTY THAN IT IS TO EVICT THEM ONCE THEY ARE THERE.”

RENTAL AGREEMENTS

THE BASICS

Objective: Minimize misunderstandings between you and your tenant to provide a basis for fair problem resolution down the road.

1. Use a contract consistent with current law or you will lose options.
2. Point out key provisions that address lease restrictions and make sure the tenant knows you take them seriously.
3. Conduct a walk-through inspection with your tenant to protect yourself against false accusations. Have your tenants sign the rental agreement to verify property conditions and smoke detector.

USE A CURRENT RENTAL AGREEMENT

Many property managers continue to use the same rental agreements they started with years ago. Federal and State law can change yearly, and case law is in constant evolution. Generally speaking, you will want new forms every two years. With an outdated rental agreement, you may give up many of your options for legal eviction. If a smart tenant chooses to fight, an outdated agreement may cost you the case.

Unless you are planning to work with your own attorney to develop rental agreement provisions, you may want to consider rental agreement forms provided by a rental management association or office supply store. Various rental management associations provide rental agreement forms, as well as other management forms, and consider it their job to assure the forms are consistent with current law.

ELEMENTS TO EMPHASIZE

Inspect the rental agreement you use and be sure it includes the provisions listed below. If they are not in the rental agreement, add them. Point out the provisions to your tenant and communicate that you take your rental agreement seriously. Note that this list is not comprehensive. It only represents elements that are occasionally overlooked, and are particularly important for preventing and/or terminating drug house tenancies.

1. ***The period of the rental agreement is month-to-month.*** In some parts of the country, yearlong leases are standard. If you offer a month-to-month rental agreement, you retain the option of serving a 30-day no-cause notice to terminate. If you lock a tenant in for a year, you will need to serve a for-cause eviction notice should they become involved in drug activity.

2. ***Subletting is not permitted.*** Make it clear the tenant cannot assign or transfer the rental agreement, and may not sublet the dwelling without your consent. Or specify that a sublease be permitted only if the sublease candidate submits to the landlord a complete application and passes all screening criteria.

You must maintain control over your property. Often the people who run the drug house are not the people who rented it. This provision will not stop all efforts to sublease, but it may prevent some and it will put you in a stronger legal position if you have to evict an illegal sublease.

1. ***Only those people listed on the rental agreement are permitted to occupy the premises.*** If the tenant wants another person to move in, that person must submit a completed application and pass the screening criteria. To make this provision work, you will need to define the difference between a “guest” and a “resident”. This is typically done by stating the number of days a guest may stay before permission for a longer stay is required from the property manager. Currently, there is some controversy over how limited the number of days should be. Check with your legal advisor to confirm the current approach before setting this criterion.
2. ***No drug activity.*** Make it clear that the tenant is responsible for any distribution, manufacture, or usage of any drugs on the premises.
3. ***The tenants are responsible for conduct on the property.*** Tenants should understand that they will be held responsible for the conduct of themselves, their children, and of all others on the premises under their control. Encourage your tenants to contact you should dangerous or illegal activity occur that is out of their control. This emphasizes that people who plan to “front” for illegal activity will be given as little room as possible to protect themselves. They will be held responsible.
4. ***The tenant will not unduly disturb the neighbors.*** Make it clear that the tenant will be responsible for assuring that all persons on the premises conduct themselves in a manner that will not interfere with the neighbors’ peaceful enjoyment of the premises. Tenants who are the source of substantial complaints from their neighbors may constitute a nuisance under California law. A nuisance can be anything that substantially impairs a neighbor’s enjoyment of life and property. Examples are noise during usual sleeping hours, being boisterous and intoxicated, loud and excessive quarreling, and using the premises for an unlawful purpose.
5. ***The tenant will pay all utilities as set forth in the agreement.*** People who deal drugs are often inattentive to matters such as paying utility bills (particularly if they are also using drugs). When bills do not get paid, service is eventually discontinued, resulting in increased risk to your property. When

a utility bill payment is the tenant's responsibility, the rental agreement should clearly stipulate that failure to pay, resulting in utilities shut off may result in termination of the agreement and eviction.

PROPERTY CONDITION INSPECTION PRIOR TO TENANT POSSESSION

Prior to signing the rental agreement, walk through the property with the tenant and make a visual inspection together. Agree on what repairs need to be done. Write it down and sign it. Give a copy to your tenant and keep a signed and dated copy in your files. Take pictures or video tape of the property; date and sign them. If the tenant damages the property, you can now prove it happened after they took possession. Unless it can be proven that the tenant received the property in satisfactory condition, it will be difficult to prove the damages were caused by the tenant if he claims it was a pre-existing condition.

Your ability to evict a tenant is almost nonexistent if the tenant has your property cited for habitability violations and you cannot prove the property condition was satisfactory at the time it rented.

Smoke Detector Contract: It is your responsibility to assure that the smoke detectors work. If you or your agent does not test them, you must make sure the tenant is aware that this is his responsibility. You must make sure that the tenant knows how to test the smoke detector. It is best to develop or purchase a form that describes how and when to test the detector and includes a space for the tenant to sign. This indicates his acceptance of this responsibility. Most importantly, this provides some assurance that your tenants will have an early warning if there is a fire. It can also reduce the possibility that a dishonest tenant might seek retribution through fire, or might fabricate a suit against you by claiming the detector failed to work.

Key Pick Up: As a precaution, require that only a person listed on the written rental agreement may pick up the keys. Meet the tenant at the time he moves in and observe what is being moved into the apartment. This establishes that possession of the property is given to the people on the agreement and not to someone else.

NOTES

ACTIVE MANAGEMENT

THE BASICS

OBJECTIVE: TO MAINTAIN GOOD LANDLORD/TENANT RELATIONSHIPS

1. Do not bend your rules.
2. Know your responsibilities as a landlord.
3. Conduct periodic inspections.
4. Watch for unpaid or unusually high or low utility bills.
5. Document your agreements in writing.
6. Get to know your neighbors.

DO NOT BEND YOUR RULES

Demonstrate your commitment to your rules and regulations and the law. Once you establish your rules, abide by them. Make sure you meet your responsibilities and hold your tenants accountable for their responsibilities. For example:

1. If you are aware of a violation of the rental agreement, do not accept the rent without noting the violation on the receipt and serving any applicable notices. Otherwise you may lose your right to serve notice for the violations.
2. If your tenant does not pay rent in accordance with the rental agreement, address the problem immediately.
3. Accept rent money only from the person(s) named on the lease or persons authorized by name to pay on their behalf.
4. If there are code violations on your property, make the necessary repairs or changes to comply with the codes.
5. If your property is in need of repair, repair it.
6. If neighbors call to complain about a problem, address the problem immediately.

Bottom line. If you respect and abide by your own rules, the tenant will too.

PROPERTY INSPECTION

Inspect your property to be sure you are meeting your responsibility to provide decent housing. Make every effort to meet your responsibilities as a landlord and document your actions. Maintaining habitable property protects your right to pursue eviction. If it is clear that you make every effort to meet your responsibilities (and document them), a tenant will be less inclined to fight a valid eviction.

1. The law requires you to give tenants at least 24 hours advance notice before entering the property to make repairs. Most tenants want repairs and will wish to accommodate you if you are considerate of their schedule. This notice can be served verbally or in writing. With such a notice, the tenant may not “unreasonably” withhold consent to your entry onto the property. Be suspicious of a tenant that is reluctant to permit needed repairs.
2. When you visit the property, check for maintenance issues and discuss any and all concerns. Make agreements to repair what needs to be fixed. Stay on top of maintenance issues. Ask your tenants to report needed repairs and respond promptly.

NOTE: If a tenant is going to make repairs or do minor remodeling, be sure you specify the terms and conditions in writing. Document the tenant’s compensation, if any, for the work to be done and specify the completion and re-inspection dates.

DOCUMENT YOUR AGREEMENT IN WRITING

Verbal agreements carry little weight in court. Keep records of your agreements and provide copies to the tenant. Retain all rental agreements, document in writing any changes to your agreement and have the tenant initial the change(s).

TRADE TELEPHONE NUMBERS WITH NEIGHBORS

Property and tenant problems can often be prevented by establishing communication with reliable neighbors. Find neighbors who are responsible, concerned and reliable. Trade telephone numbers and ask them to advise you immediately of any problems pertaining to your property.

PROMOTE A SENSE OF COMMUNITY

Tenants and landlords are sometimes frightened to report illegal activity. Their fear diminishes once they discover there is “strength in numbers”. An organized landlord/tenants group has the power and ability to keep the neighborhood drug and crime free. Landlords must take a proactive role to help tenants unite for their mutual benefit. This is an opportunity to establish or enhance a positive working relationship.

Organizing a landlord/tenants group often results in the following benefits:

1. Lower tenant turnover, resulting in considerable savings for the landlord.
2. Less damage to property and lower repair bills.
3. Reduced crime.
4. A safer, more relaxed atmosphere for the tenants.
5. A positive reputation for the complex, leading to higher quality applicants and eventually increased property values.

NOTES

LANDLORDS SOLVING PROBLEMS

Police officers often respond to numerous radio calls at the same location and traditionally view these calls as separate and unrelated incidents. This approach results in solving the immediate problem without changing the underlying conditions.

Landlords also respond to the same problems over and over. One landlord recently complained that she had fixed the same security gate six times! Fixing the gate did not solve the problem; it only repaired the damage.

Identifying and addressing the underlying condition is the basis of problem solving. The following model is a step-by-step process used by the Eureka Police Department to identify, analyze and solve problems. The same process can empower you to be an effective owner/manager.

NOTES

THE PROBLEM SOLVING PROCESS

SCANNING. IDENTIFYING A PROBLEM

The first step is to determine if there are related or repetitive incidents occurring on your property. These incidents can be related by time, location of occurrence, people involved, or type of behavior. Determine if the incidents cause, or are likely to cause, harm to your property or tenants.

Signs that might indicate you have a problem include tenant complaints, discarded drug paraphernalia, personal observations of suspicious activity, revenue loss, lower occupancy rates, continual police presence, graffiti, property damage, excessive litter and neighbor complaints.

After identifying the problem, ask yourself these important questions:

1. Who is affected by these problems?
2. How have I responded in the past?

ANALYSIS. RESEARCH THE PROBLEM

Analysis will provide valuable information concerning the problems. There are important questions that need to be thought through in order to understand “Why me? Why not the property next door?” Look at the big picture. What underlying conditions contribute to this environment? What makes your property attractive for criminal activity?

Example Number 1:

An apartment complex was experiencing an abnormal number of burglaries. Twenty-three percent of the residents had been burglarized during the previous year. Rampant crime and dilapidated conditions earned it a reputation as the worst complex in the city. Tenants identified the living conditions as equally troublesome. These factors make it easier for criminals to break into the apartments. To fix the problem, a HUD loan was secured and the housing was improved. The result was a 35% reduction in burglaries and an improved reputation.

Example Number 2:

A landlord identified that tenants were not using the laundry room because of the presence of drug users. The good tenants were moving out and drug users were replacing them. To combat the problem, the landlord put a metal security door on the laundry room and controlled access to the room. The landlord evicted the

unwanted tenants and got rid of the drug users. These actions resulted in a higher occupancy rate and increased tenant satisfaction.

You may face problems such as constantly repairing a damaged gate. Instead of viewing the gate as the incident which needs your attention, look for the deeper issue. Why is the gate being broken? A careful analysis might reveal the vandals are drug dealers living in the complex trying to make access easier for the drug buyers. The vandals might be gang members needing easy escape routes to hide in an apartment when running from the police. The corrective action in each case will differ based on analysis.

You are exploring two questions:

1. What do I need to know about the problem?
2. Where do I go to get this information?

Analysis can be as simple as asking a trusted tenant, “What is going on here?” or as complex as surveying and interviewing **all** your tenants and neighbors. One landlord discovered that although his manager claimed to have a 50% occupancy rate, in reality all the apartments had been rented. Many of the apartments were rented to drug dealers and users. Accurate analysis determines the course of action. Had the owner simply evicted the dealers, the problem would have continued. Replacing the manager solved the problem.

RESPONSE. TAKING CARE OF THE PROBLEM

Based on your analysis, set realistic goals. After setting goals, find creative methods and resources to solve the problems you have identified. There are no limits governing your ability to be creative. **The only limitations you have are your ethics and the law.** Here are some of the examples of the problem-solving process.

NOTES

SCANNING

Drug sellers using
the cover of darkness

Drug sellers
using the
laundry room

Gang members
gathering on
property

Mistrust and
lack of commun-
ication

Fear of being
victims in their
own apartments

ANALYSIS

Where are these
dark places
located?

When & why do they
use the laundry
room?

How do they gain
access to the
property?

Who are the people
who need to trust
each other more?

What causes the
fear?

RESPONSE

Install motion
sensitive lights
where they hide

Install security
door; give key
to the manager

Evict gang
members;
install classical
music sound
system to deter

Bring in trans-
lators, organize
a tenant picnic

Hire a part time
security guard

These are a few examples of how to use the problem-solving process. As you eliminate the underlying condition, you decrease the numerous problems the condition creates.

ASSESSMENT. HOW EFFECTIVE WAS THE RESPONSE?

Evaluate your effectiveness to determine if you eliminated the problem, reduced the problem or reduced the harm the problem was causing. If you achieve your goals and are satisfied with the results, celebrate your efforts. If you did not meet your goals or you think you can increase your effectiveness, return to analysis and develop future responses.

RECOGNIZING NARCOTICS ACTIVITY IN YOUR NEIGHBORHOOD

Drug problems can come in many forms and all drug related problems present a very real threat. Blatant drug dealing from a rental property is very visible and extremely damaging to a neighborhood's quality of life. As an area develops a reputation, more and more decent people move out of the neighborhood and less desirable people replace them. The problems continue to get worse as the vacancy rate goes up and costly, time consuming, lengthy evictions begin.

There are other problems that can cause harm to an area and drive away decent people. Drug users who do not deal drugs and are not involved in blatant drug activity are often responsible for property crimes and other associated problems. Your ability to recognize narcotic activity in your neighborhood and on your property is a very important step in breaking the cycle and working toward eliminating the problem.

Safety tip: *“Do not expose yourself to any danger while obtaining information about narcotics or criminal activity.*

DRUG DEALERS

Dealers usually sell small quantities of drugs to numerous buyers.

CITIZENS MAY OBSERVE THE FOLLOWING:

1. A lot of traffic, such as cars and pedestrians stopping at a home for only brief periods. Traffic may increase on weekends, late at night or on paydays.
2. Visitors who appear to be acquaintances rather than friends.
3. People bringing valuables, such as televisions, stereos, DVDs, portable electronic items or cameras into the home and leaving empty handed.
4. Visitors who sit in the car for a while after leaving the residence or visitors who leave one person in the car while the other visits.
5. “Lookouts”, frequently younger people who tend to hang around the property during heavy traffic hours. Drug dealers often hire people, even children, to look out for police cars.
6. Obvious signs such as people exchanging small packets or cash and/or people using drugs while sitting in their cars.

7. Weeknight activity at extremely late hours may indicate drug activity. (Cocaine and methamphetamine are both stimulants and users tend to stay up all night.)
8. Drug related paraphernalia (i.e., needles, vials, glass pipes, bent spoons, broken balloons and condoms) scattered on or near the property.

LANDLORDS MAY OBSERVE THE FOLLOWING:

1. Rent paid in cash, failure to pay utility bills, failure to maintain the house in appropriate condition, or general damage to the property. Dealers often smoke or inject their profits.
2. Metal security bars installed on windows and doors.
3. Tenants who appear to have no source of income but are always able to pay rent.
4. Several people loitering on and around the property.

DISTRIBUTORS

“Distributors” are those who sell larger quantities of drugs to individual dealers or other, smaller distributors. They are the “wholesale” component, while dealers are the “retail” component. If the distributors are not using drugs themselves, they can be difficult to identify. A combination of the following indicators may be significant:

1. Expensive vehicles owned by people otherwise associated with a lower standard of living. Some distributors make it a practice to spend their money on items that are easily moved. They might drive a \$60,000 car while seeking to rent a \$400 per month rental unit.
2. Regular car switching, especially at odd hours. People arrive in one car, leave it at the premises, and use keys already in their possession to drive off in another car.
3. Pagers and cellular telephones used by people who have no visible means of support.
4. A tendency to make frequent late night trips.

WHAT TO DO IF YOU OBSERVE NARCOTIC ACTIVITY IN YOUR NEIGHBORHOOD

If you think there are on-going crimes occurring in your neighborhood, report it to the police. Keep accurate records regarding your observations. Take special care to note exact addresses, vehicle descriptions and license plate numbers and descriptions of people involved. Note the time of day the activity is at its peak.

The Eureka Police Department has personnel assigned to the Humboldt County Drug Task Force. Call the Humboldt County Drug Task Force at 444-8095 as soon as possible to report your observations. Drug traffickers will move locations quickly if they believe the police are informed of their activity.

Any criminal activity that is “in progress” should be reported by either calling 9-1-1 or Police Dispatch at 441-4054.

Safety tip: *“Do not expose yourself to any danger while obtaining information about narcotics or criminal activity.”*

SPECIFIC DRUGS

While many illegal drugs are sold on the street today, the following are the most common:

COCAINE AND CRACK

Cocaine is a stimulant. Nicknames include Coke, Nose Candy, Blow, Snow and others. At one time cocaine was quite expensive and generally out of reach for people of lower incomes. Today, the price has dropped to the point where it can be purchased by everyone. Cocaine in powder form is usually snorted. It looks like and has the consistency of baking soda. Less frequently, it is mixed with water and injected. It is sold in small folded paper packets.

“Crack”, a smokeable derivative of cocaine, produces a more intense but shorter high. It is commonly known as “Rock”. Crack is manufactured from cocaine and baking soda. Because crack delivers a high using less cocaine, it costs less per dose, making it particularly attractive to drug users with low income. Crack looks like small pieces of old dried soap. Crack is often sold in tiny “zip lock” bags, little glass vials, folded paper bindles or sometimes hand-to-hand with no packaging at all. Crack is typically smoked in small glass pipes. Signs of cocaine use are not necessarily apparent to observers. Cocaine usage may be indicated by a combination of the following symptoms:

1. Regular late night activity.
2. Highly talkative behavior.
3. Hyperactivity.
4. Profuse sweating.
5. Paranoid behavior.
6. Constant sniffing or bloody noses.

HEROIN

Heroin is an extremely powerful painkiller, both emotionally and physically. Nicknames include “Brown Sugar,” “Mexican Tar,” “Chiva,” “Horse,” “Smack,” “H,” and others. Heroin is typically injected. Tar Heroin has the look of creosote off a telephone pole, or instant coffee melted with only a few drops of water. The drug has a strong vinegar smell to it. It is typically sold in small amounts, wrapped in tinfoil, plastic or balloons. Paraphernalia that might be observed includes hypodermic needles with a brown liquid residue, spoons or bottle caps that are blackened on the bottom, and blackened cotton balls.

When heroin addicts are on the drug, they appear disconnected and sleepy. They can fade out or even fall asleep while holding a conversation. Heroin addicts only care about their next fix and how to purchase that fix. An addict may have to burglarize two to three houses a day to supply their habit. Most addicts steal from their neighbors. When they are not high, addicts can become quite aggressive. Heroin users usually wear long-sleeved shirts to cover their injection marks.

MARIJUANA

Marijuana is also known as “Pot,” “Grass,” “Weed,” “Reefer,” “Joint,” “J,” “Mary Jane,” “Cannabis,” and many others. It is smoked from a pipe or a rolled cigarette. Marijuana is a green leafy substance and looks like oregano. Smoking marijuana produces a mellow high. The type and duration of the high varies significantly with the strength and strain of the drug. Users generally appear disconnected and non-aggressive. The user’s eyes may also appear bloodshot.

The marijuana grown today is far more powerful than the drug that became popular in the late 1960s and early 1970s. Growers have developed more sophisticated ways to control growth of the plants and assure high output of the resin that contains THC (the ingredient that gives marijuana its potency). Today marijuana is often grown indoors to assure greater control over the crop and to prevent detection by competitors, animals or law enforcement. It takes 90 to 180 days to bring the crops from seed to harvest.

Marijuana is generally sold in small plastic “zip lock” baggies or rolled in cigarette paper. The smell of the smoke has been described as a musky cigarette smoke.

METHAMPHETAMINE

Methamphetamine is a stimulant. Nicknames include Meth, Crank, Speed, Crystal, and others. Before its price dropped, meth was known as “the poor man’s cocaine.” Meth is usually ingested, snorted, injected and some types can be smoked.

“Pharmaceutical” grade meth is a dry, white, crystalline powder. While some methamphetamine sold on the street is white, much of it is yellowish, or even brown, and it sometimes has the consistency of damp, powdered sugar. The drug has a strong chemical odor. Methamphetamine is often sold in tiny “zip lock” bags, little glass vials and folded paper bundles similar to the methods used for cocaine packaging.

Hard-core meth addicts get very little sleep. Chronic users and “cooks” (those who manufacture the drug) may have open sores on their skin, bad teeth and generally appear unclean. Paranoid behavior combined with regular, late night activity are potential indicators.

METHAMPHETAMINE LABS

There is very little that is consistent, standard, or predictable about the safety level of a methamphetamine lab. The only thing we can say for sure is that you will be better off if you leave the premises immediately.

HOW TO RECOGNIZE A LAB

Methamphetamine “cooks” rarely pay attention to keeping the property clean. Dangerous chemicals are often stored on the property. These chemicals are rarely stored in their original containers. Often you will see plastic milk jugs or screw-top beer bottles containing unknown liquids. It is common to find bottles of lethal chemicals sitting on the same table with the cook’s breakfast.

Toxic dumpsites are common. Glass cooking vessels become brittle with usage and they must be discarded. You will often find small dumpsites of contaminated broken glass, needles, and other paraphernalia on the grounds surrounding a meth lab.

Many toxic chemicals are used to make methamphetamine. The list of chemicals that have been found in methamphetamine labs is a long one. Some are standard household items such as baking soda. Others are extremely toxic or volatile, such as Hydrochloric Acid (serious health hazard), Methylamine (extremely flammable and serious health hazard), Methanol (flammable), Potassium Hydroxide (serious health hazard), Lithium Aluminum Hydride (extremely flammable and serious health hazard), ether (medium health hazard and highly explosive), benzene (carcinogenic), and even hydrogen cyanide (also used in gas chambers). Other chemicals such as ephedrine, phenylacetic acid and phenyl-2-propanone have been known to cause adverse health effects but little is known about the long-term consequences of exposure.

“Booby traps” are a possibility. Other meth users and dealers may have an interest in stealing the product from a cook. Some cooks set booby traps to protect their product. A trap could be as simple as a trip wire that sounds an alarm, or as deadly as a wire that pulls the trigger of a shotgun. A door can be rigged to knock two chemicals together, which react to release hydrogen cyanide gas (the type used by States in gas chambers).

WHAT TO DO IF YOU FIND A LAB

Leave! You will not know which chemicals are present or if the place is booby-trapped. Do not stay around to figure it out. Do not open any containers. Do not touch anything. ***If you think you have discovered a methamphetamine lab inside the City limits, immediately call the Eureka Police Department at 441-4044.***

RISK CONSIDERATIONS

Use extreme caution when investigating rental properties that you believe are being used for illegal activities. You may be dealing with people who lack the ability to exercise self-control and good judgment. The nature of illegal activities, such as the narcotic trade, has inherent dangers.

The property itself harbors many possible hazards. There is always the risk of explosions, fire, booby traps, or contamination from toxic or lethal chemicals. Do not put your hands in places you cannot see. Hypodermic syringes and contaminated broken glass can cause serious injury or even death.

If you are aware of illegal activity occurring on your rental property but choose to “look the other way” or ignore the problem with the hope that it will go away, then consider the risks. The tenants will eventually damage or contaminate your rental property with toxic chemicals. They can give your property a bad reputation, which will affect future rental. If your tenants contaminate your rental property with toxic chemicals or drug by-products, the damage will not be covered by insurance. Insurance will not usually cover your property even if the building has to be demolished because of the contamination. Fire or public liability insurance may not cover you for losses stemming from illegal activities that you knowingly allowed to take place on your property.

NOTES

LAWS AFFECTING PROPERTY OWNERS

ABATEMENT

The first step in this process should be to gain willing compliance with the law. That is to say that by giving due and timely notice, the expectation should be that the landlord and/or the tenant would willingly cease the activity, abate or remove whatever it is that is creating a nuisance, or depriving a person or persons of their right to live peacefully and safely in their neighborhoods.

There are usually two remedies to an on-going nuisance in a neighborhood. Depending on the nature and seriousness of the nuisance, the two remedies may be either criminal or civil or a combination of both. In the case of a criminal matter, the police may have no other alternative than to pursue a criminal remedy for the nuisance. This does not, however, forbid a civil remedy by an aggrieved citizen. A citizen will retain the right to civil redress. In cases such as these, it is imperative that the citizen and the police work as a team.

CIVIL AND CRIMINAL REMEDIES

California Evidence Code:

Section 115. "Burden of Proof." Burden of proof means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact or the court. The burden of proof may require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that he establish the existence or nonexistence of a fact by a preponderance of the evidence, by a clear and convincing proof, or by proof beyond a reasonable doubt. Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

Section 500. "Instructions on burden of proof." Proof - - "by a preponderance of the evidence, by clear and convincing proof, or by proof beyond a reasonable doubt," are the three standards commonly recognized for measuring a party's burden of proof.

Preponderance of evidence may be described as: a documentable on-going series of events and activities by a person or persons, which can be classified as criminal conduct and/or a public nuisance could provide proof by the preponderance of evidence collected by both the citizen and the police. An ongoing pattern of undesired behavior and/or events that can be documented and presented in court is needed by both the police and the citizens who intend to exercise their rights to civil remedies in court.

California Civil Code:

Section 3479. [Nuisance, what] defined: Anything which is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, or any navigable lake, or river, or bay, or stream, canal or basin, or public park, square, street or highway is a nuisance.

(Because the definition of nuisance is quite broad, the courts may use their discretion to treat only serious problems as legal “nuisances.”)

Section 3480. Public nuisance: A public nuisance is one which affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

Section 3481. Private nuisance: Every nuisance not included in the definition of the last section is private.

Section 3483. What is not deemed a nuisance: Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

Section 3483. Successive owners: Every successive owner of property who neglects to abate a continuing nuisance upon, or in the use of, such property, created by the former owner, is liable therefore in the same manner as the one who first created it.

Section 3484. Abatement does not preclude action. The abatement of a nuisance **does not** prejudice the right of any person to recover damages for its past existence.

Section 3490. Lapse of time does not legalize: No lapse of time can legalize a public nuisance, amounting to an actual obstruction of public right.

Section 3491. Remedies against public nuisance: The remedies against a public nuisance are:

1. Indictment or information
2. A civil action, or,
3. Abatement

Section 3493. Remedies for public nuisance: A private person may maintain an action for a public nuisance, if it is especially injurious to himself, but not otherwise.

Section 3494. Action: A public nuisance may be abated by any public body or officer authorized thereto by law.

Section 3501. Remedies for private nuisance: The remedies against a private nuisance are:

1. A civil action; or
2. Abatement

California Health and Safety Code:

Section 11366. Maintenance of Location for Unlawful Activities: Every person who opens or maintains any place for the purpose of unlawfully selling, giving away, or using any controlled substance.

Section 11366.5. Management of Location Used for Unlawful Manufacture or Storage of Controlled Substance(s): Any person who has under his or her management control any building, room, space, or enclosure, either as an owner, lessee, agent, employee, or mortgagee, who knowingly rents, leases, or makes available for use, with or without compensation, the building, room, space, or enclosure for the purpose of unlawfully manufacturing, storing, or distributing any controlled substance for sale or distribution.

Section 11570. Buildings Constituting Nuisance: Every building or place used for the purpose of unlawfully selling, serving, storing, keeping, manufacturing, or giving away any controlled substance, precursor, or analog specific to this division, and every building or place wherein or upon which those acts take place, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

Section 11571 through 11587: Sets forth abatement procedures for property declared to be a nuisance property. The city, state, or any individual can take action to abate a nuisance. **For action or further information call the Police Department's Criminal Investigations Division at 441-4060.**

The California Penal Code

Section 370. Public nuisance defined: Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, or by any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, or any navigable lake, or river, bay, stream, canal, or basin, or any public park, square, street, or highway, is a public nuisance.

Sections 370 to 374: Describe the process under which such a nuisance can be abated, and makes it a misdemeanor to maintain or commit any public nuisance. **For action or information call the Police Department at 441-4060.**

Section 594. Malicious Mischief: This Penal Code Section makes it a crime of vandalism for any person who maliciously (a) defaces with paint or any other liquid, (2) damages, or (3) destroys any real or personal property not his or her own. If the vandalism consists of writing graffiti, the court may, in addition to any other punishments, and at the option of the victim, order the defendant to either clean up and repair the damaged property, or pay for someone else to do so. For action or information call the Police Department at 441-4060.

The Eureka Municipal Code complete information available online at www.eurekawebs.net

Section 3-6.1007. Repairing or greasing vehicles on streets. No person shall construct, or cause to be constructed, repair, or cause to be repaired, grease, or cause to be greased, any vehicle, or any part thereof, upon any public street in the City; provided, however, temporary emergency repairs may be made upon a public street. **For action or information call the Police Department at 441-4060.**

Chapter 10. Abandoned Vehicle Abatement

Section 3-10.22. Use of streets for storage of vehicles. No person who owns or has possession, custody, or control of any vehicle shall park such vehicle upon any street, alley, or public parking lot for more than a consecutive period of seventy-two (72) hours.

Section 3-10.01 through 3-10.21. Vehicle Abatement. These sections of the Eureka Municipal Code cover the definitions and enforcement authority for the Police Department to abate abandoned vehicles on both public and private property. NOTE: The enforcement process can be lengthy. As a general rule, unless circumstances allow otherwise, the process takes a minimum of ten (10) days once an officer has opened a case on the vehicle. **For action or information call the Vehicle Abatement Unit at 441-4060.**

Note: Current funding levels for Vehicle Abatement provide for employment of temporary PSOs. Funding impacts the number of vehicles that maybe removed and disposed of in a given Fiscal Year.

Chapter 7 – Nuisances

Section 4-6.01. Loitering by minors. (Curfew) Every person under the age of eighteen (18) years who loiters in or about any public street or other public place or any place open to the public in the City of Eureka between the hours of 10:00 PM Standard Time or 11:00 PM Pacific (when in effect) and sunrise of the following day when not accompanied by a parent or other adult person having legal custody or guardianship is in violation of this section. **For action or information, call the Eureka Police Department at 441-4060 during business hours and Police Communications at 441-4054 after hours.**

Section 4-7.01 through 4-7.25. These Sections cover the definitions and remedies for addressing nuisances particularly those that are buildings or structures that are dilapidated, unsafe, dangerous, unsanitary, or a menace to the life, limb, health, morals, property, safety, and general welfare of the people of the city, or which constitutes a fire hazard.

Authority to address nuisances as described in these sections of the Municipal Code is given to the Building Official, the Health Officer, the Fire Chief, and the Director of Public Works. **For action or information call either the Fire Department at 441-4000 or the Building Department at 441.4155.**

Sections 4-17.01 through 4-17.06. Aggressive Solicitation. These sections cover aggressive solicitation (panhandling or begging). “Solicitation” for the purposes of this section is any request made in person seeking an immediate donation of money, food, cigarette, or items of value. Passive displays of signs, or passive indications that the person is seeking a donation are not addressed by this section. This ordinance specifies places prohibited, manner of approach, and making false or misleading statements.

Sections 4-18.01 through 4-18.03. Loitering for Drug Related Activities. It is unlawful for any person to loiter at specified locations with the intent to buy, sell, transfer, or use illegal drugs after being asked to leave by any peace officer. **For action or information, call the Police Department at 441-4060.**

Sections 4-19.01 through 4-19.08. Cruising. No person shall engage in, nor loiter on any property in the proximity of, the activity known as “cruising” as defined in this chapter on the public streets, alleys, or highways of the City of Eureka in any area which has been posted as a No Cruising Zone. **For action or information, call the Police Department at 441-4060.**

Sections 130.10 and 130.11 Disproportionate Police Calls For Service.

Your Police Department is often called to respond to disturbances caused by parties, gatherings and other events or assemblages by crowds or individuals. In the majority of instances, the first response is the only response required to gain compliance and tone these activities down thereby allowing neighboring citizens the peace to enjoy their homes and property. Occasionally, the officers are called to the same event additional times because the responsible individuals fail to comply with the request of the officers or otherwise be responsible for reducing problems at the property.

This section of the Eureka Municipal Code allows police officers the ability to gain accountability from the property owners and others for multiple responses to their location(s). A fee based penalty motivates these subjects to take corrective measures to insure the ongoing nuisance behavior is no longer allowed to continue.

Sections 5-2.01 and 5-2.04. Camping: Autos, trailers and house trailers. These two sections cover persons who use public spaces or public streets for living accommodations. The second section also covers the use of house trailers, trailers, or other movable structures for habitation within the City. **For action or information, call the Police Department at 441-4060.**

Chapter 13 – Removal of Weeds, Rubbish and Debris

Sections 4-13.01 through 4-13.09. These sections of the Municipal Code cover the definitions of weeds and rubbish, and give the authority to destroy or remove weeds or rubbish. The Director of Public Works and the Fire Department have the authority to cause the destruction or removal of weeds or rubbish. **For action or information call the Fire Department at 441-4000.**

Chapter I – Animals

Sections 5-1.101 through 5-1.623. These sections of the Municipal Code authorize the Police Department to maintain an Animal Control Officer. The Animal Control Officer has a variety of duties, which includes the authority to investigate and enforce violations of this code. Dogs, cats, livestock, and other animals fall within this jurisdiction when they become a nuisance to citizens of this community. **For action or information call for the Animal Control Officer at 441-4060.**

DRUG HOUSE ORDINANCE

This ordinance recognizes the citizens concerns about the increase in use of apartment buildings, rentals, and owner-occupied properties by persons involved in illegal drug trafficking and use.

This ordinance declares it a nuisance to unlawfully sell, store, manufacture, or give away controlled substances, precursor or analog, as defined in the Health and Safety Code, on private property within the City of Eureka.

THE ROLE OF THE CHIEF OF POLICE

The Chief of Police is the regulating authority for corrective action by property owners who have been determined to be maintaining a nuisance as described in this ordinance.

If a preponderance of evidence is compiled that shows that the unlawful sale, storage, manufacturing, selling, or giving away of a controlled substance, precursor or analog as defined in the Health and Safety Code has occurred on the property, the Chief of Police may order the property owner to take corrective action to abate the activity.

Corrective action may include, but is not limited to:

1. Hiring a resident manager.
2. Hiring a security guard.
3. Installing security doors.
4. Posting "No Trespassing" signs.
5. Developing property rules regulating non-resident access.
6. Instituting actions to remove residents and others involved in illegal conduct on or about the property.
7. Criminal investigation of illegal activities.

Prior to the City taking action, the Chief of Police will give the property owner a written notice by registered mail. The written notice will contain the following information:

1. A general description of the nuisance.
2. The proposed actions.
3. Ten (10) days in which to respond.
4. The Department's contact person, phone number and location.

The failure to comply with the order from the Chief of Police is declared to be a nuisance, and the City Attorney may bring a civil action for injunctive and other relief. Failure to comply can also result in a civil penalty of up to \$1,000.00 per day.

THE AGGRIEVED CITIZEN'S REMEDY

Any citizen who is aggrieved by such a nuisance may do the following:

1. Bring an independent civil action against the property owner for appropriate relief including:
 - a. Damages.
 - b. Costs.
 - c. Attorney's fees which have incurred as a result of such activity of no less than \$500.

A "Person Aggrieved" is anyone who owns or occupies any premise that cannot be quietly used and enjoyed due to the unlawful sale, storage, manufacture, selling or giving away of a controlled substance, precursor or analog, on, or in, any property dwelling unit other than their own.

Procedures for citizen oriented remedies are found in this Manual's sections on: **The Problem Solving Process," "Recognizing Narcotic Activity"and "Laws Affecting Property Owners."**

MAINTAINING A PLACE FOR ILLEGAL ACTIVITIES

Any person who opens or maintains any place for the purpose of selling drugs can be sent to prison per 11366 Health & Safety Code. For example, a hotel manager who allows tenants to sell drugs on the property can be fined or sent to prison. A manager is required to guard against the misuse of the property. **People v. Soles 68 CA 3d, 418, 136 Cal. Rptr. 328 (1977).**

Any person who knowingly rents or leases a place for the purpose of selling drugs can be sent to prison (11366.5(a) Health and Safety Code). A second conviction can be punished by four years in prison.

It is against the law for an owner or manager to knowingly allow a tenant to sell drugs and fortify the building against police entry. By receiving excessive amounts of money from that tenant, the owner or manager may be sent to prison for four years. (11366.5(b) Health & Safety Code).

Any owner who knowingly permits illegal gambling or prostitution to take place on the rental property can be sent to jail for six months and fined.

CIVIL LIABILITY

A landlord is civilly liable if he fails to reasonably ensure the safety of his tenants. The owner may be liable for any injury caused to a tenant when the landlord knew or should have known that another tenant was engaged in drug dealing and failed to take reasonable steps to protect the tenants from the hazards caused by drug dealing. Knowledge of drug dealing can come in the form of complaints from tenants, neighbors, or the police.

FAIR HOUSING

Fair housing laws are designed to protect the way applicants are screened and to assure that all applicants feel equally invited to apply. All applicants must be considered according to criteria that do not have the purpose or effect of discriminating on the basis of race, color, religion, sex, handicap, national origin, marital status, or age.

Examples of discrimination: The landlord tells an applicant the apartment has been rented and continues to advertise the unit. The landlord sets more stringent rental terms for one tenant than for others (higher deposit, higher rent). Different information is given or required of one applicant than from another. Specific apartments are shown to specific types of applicants in order to group types of tenants together.

The best way to avoid any problem with the law is to prepare a written screening process. Review the process with each applicant and treat each applicant similarly.

NOTES

EVICTIION

Do not hesitate to evict someone if you have reason to suspect them of selling or using drugs. You may be criminally or civilly liable if you let them stay. Get help, either from an attorney, certified paralegal, county marshal's office, property management service, or from books designed to help a landlord with the eviction process. In many cases you may represent yourself in court.

Ask Them to Leave

Start negotiations with your tenants. Before you begin the eviction process, ask them to leave. This will usually give you an indication of the attitude, stubbornness and defenses a tenant will display later on in the process. Anonymity is highly regarded by drug dealers and they will probably move once they are exposed.

Notice

Service may be given by handing a copy of the notice to the tenant personally, or

By leaving a copy with an adult at the residence and also mailing a copy, or

If no person is home, by posting the notice on the door and mailing a copy (1162 California Civil Procedure). You must make reasonable efforts to personally serve the notice before using this method.

Always keep a log of the date the notice was given, posted, and/or mailed and keep the original copy of the notice. Service requirements are specific. Do not deviate from them. If you fail to personally serve a 3-day notice, in some cases the tenant's time to respond may only begin when the notice is actually received. If you post and mail the notice, the tenant may have as long as eight days, rather than 3 days, to respond even if the notice is received. For this reason, it is better to personally serve the notice whenever possible. Use the correct forms. Notice forms are available at most stationery stores.

30-Day Notice

This notice states that you do not wish to renew the lease and gives the tenant 30 days to find another place to live. Use this notice when possible. It does not state the reason for the eviction and is the easiest to defend in court.

30-Day Notice for Cause

This type of notice can be used for evicting Section 8 recipients. It can also be used to evict any person for violation of their lease agreement. This notice requires proof of violations. You may evict a tenant if you have proof that the tenant or guests have violated the lease (e.g., drug sales, excessive foot traffic or noise). Police reports,

photographs and tape recordings are valuable evidence if this goes to court, however a subpoena is required for access.

60-Day Notice for Cause

Tenants in mobile home parks are usually entitled to 60-day notices for good cause. Special rules apply. Check the law before proceeding with type of eviction.

3-Day Notice of Non-Payment of Rent

This notice can be given the first day after your tenant fails to pay the rent when due. After notice is served, the tenant has three days to pay the rent. You cannot refuse a full rent payment during this period, even if you wish to evict the tenant. If the rent is paid, you cannot proceed with an eviction utilizing this section. Do not accept a partial payment or payment after the three days if you wish to continue the eviction process. Acceptance of a partial payment may destroy the validity of the notice.

3-Day Notice of Violation of Lease

This notice requires proof of violation of the lease (e.g., drug use or sales). Usually a tenant can stay if he cures the violation within three days. However, some violations cannot be “cured”. Get help when attempting to use this type of notice.

Unlawful Detainer

The only way to evict a tenant who does not want to leave is through a court action called an “Unlawful Detainer”. After the appropriate notice is given and the appropriate time has expired, the next step in eviction is to file an “Unlawful Detainer” action. This action must be filed with the court clerk for the county in which the property is located. After the paperwork is filed, the tenant will have five days to file a response. If a response is filed, there will be a hearing. If no response is filed, you may get an automatic judgment in your favor. After the judgment in your favor, the Marshal will forcibly evict the tenants and you will regain possession of your property. **For action or information call the Humboldt County Sheriff’s Office at 445-7251.**

DO NOT!

Do not lock out tenants, turn off their water or electricity, interfere with their property, or forcibly remove them. Do not use techniques or harassment designed to make them want to leave. Doing so is illegal and may result in a jail sentence or civil suit. Do not evict someone in retaliation for his or her complaints to a government agency or to you. However, you may use incentives, such as money, in your negotiations with tenants to induce them to move voluntarily.

SECTION 8 PROGRAM

When you decide to rent through Section 8, you must understand the legal and practical differences. With a good Section 8 candidate, you can expect the same success rate as with a private renter. The following items are some basics of Section that you need to understand:

1. Learn the program's benefits and drawbacks.
2. Renters tend to have broader rights and may be more likely to fight the eviction process.
3. There are significant differences between Section 8 contracts and regular rental agreements.
4. Lease provisions you want in the contract must be spelled out and agreed to by both the Housing Authority and the tenant.
5. Do not use the Housing Authority as a crutch. If you have cause to serve an eviction notice, do not wait for the Housing Authority to suspend payments. Take action on any evidence you may have.
6. Section 8 recipients are only screened for financial eligibility. You must screen your tenant for desirability.

Benefits:

Reliable Rent: As long as you meet your obligations under the agreement, the federal government will pay some or all of the rent.

Fair Market Rent: The Housing Authority works to assure that subsidized rents do not exceed comparable private rentals in the area.

Servicing the Public Good: Section 8 provides monetary assistance for low-income families without monetary loss to the landlord.

Landlord Training: The Housing Authority may provide training for participating landlords. This training will be offered if sufficient interest is identified. **Call the Housing Authority to express your interest at 443-4583.** You will be placed on the next training session to be scheduled.

Complaints:

The Housing Authority will review complaints regarding Section 8 tenants. They will contact the appropriate authority and arrange a conference with the tenant. The Housing Authority has the right to terminate the renter's assistance. There must be clear evidence of dangerous criminal activity. The process is not immediate and includes careful review.

Guidelines to be Aware of Pertaining to Section 8

Remember that the Housing Authority cannot do your work. Even if payments are terminated, evicting the tenant remains your responsibility. If subsidy payments are stopped due to the tenant's noncompliance, a landlord will be able to evict for either non-payment of rent or a violation of the lease. However, if payments are terminated due to the failure of the landlord to maintain the property, the tenant may not be required to pay this money and may not be evicted without good cause.

Model Leases. Leases provided by the Housing Authority are for general use and are written to match federal guidelines. In some cases, landlords may attach additional conditions to the model lease.

Additional Tenants. Section 8 requires all occupants to be listed on the lease along with their income. Tenants should be advised that failure to do so could result in disqualification from the program or a lower subsidy.

Permanent Lease. Under Section 8, the landlord can only terminate the lease for cause. During the first 12 months, the "cause" must be a serious violation of the law or terms of the lease. After twelve months, the landlord has the option to change some terms and conditions of the lease or terminate the lease for any valid reason. Valid reasons for termination may include renovation or sale of the property, rent increase, tenant's refusal to sign a renewal lease, or usage of the property for personal or nonresidential purposes.

Three-Day Notice. Recent legislation now allows a landlord to keep the subsidized portion of the rent and serve the three-day notice on tenants who fail to pay their portion of the rent.

Evictions. Evictions are likely to be more complicated. Section 8 renters tend to be more aware of their rights. The Housing Authority informs renters of basic legal options and recommends that they seek the advice of an attorney. Eviction of Section 8 tenants may cause them to lose their eligibility for subsidized rent. Section 8 renters are more likely to fight the eviction when their continued Section 8 eligibility is in jeopardy.

Screening Section 8 Applicants. Obtain a signed applicant waiver, with the client number on it, which allows access to their file. Be sure the waiver is signed and dated. Make an appointment with a Housing Authority representative who will show you those portions of the files that are viewable by the public. Take your tenant application with you and show it to the representative. Ask the representative to review the application by comparing it with their records for contradictory information. Use your normal screening process in addition to Section 8 screening.

Renting to a person on Section 8 requires you to make an informed decision. You must be aware of the requirements involved in the program. You will benefit by having a tenant for at least one year, and receive guaranteed rent. **For action or information call Eureka Housing Authority at 443-4583**